

CARL MCDONALD JR.,)
)
Plaintiff,)
)
v.) No. 4:07CV945 FRB
)
JEREMIAH NIXON,)
)
Defendant.)

This matter is before the Court upon the application of Carl McDonald Jr. For leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the application, the Court finds that plaintiff is financially unable to pay any portion of the filing fee, and the motion will be granted. Additionally, the Court has reviewed the complaint and will dismiss it pursuant to 28 U.S.C. § 1915(e)(2)(B) because it fails to state a claim upon which relief can be granted.

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if “it lacks an arguable basis in either law or in fact.”

Neitzke v. Williams, 490 U.S. 319, 328 (1989). An action fails to state a claim upon which relief can be granted if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32-33 (1992); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

The Complaint

Plaintiff, a civilly committed resident of the Missouri Sexual Offender Treatment Center (MSOTC), brings this action under 42 U.S.C. § 1983 alleging that the conditions at MSOTC are unconstitutional. Defendant Jeremiah Nixon is the Attorney General for the State of Missouri. The complaint seeks declaratory relief.

The complaint, for all of its 352 pages, contains almost no allegations relevant to a civil rights action. It contains various lists, descriptions of things, and trivial facts. For example, several paragraphs of the complaint are dedicated to the square footage of various common rooms. The contents of the bathrooms are listed in exacting detail. And the dates on which the various facilities were built are supplied.

More important to plaintiff's case, however, is that the complaint does not allege that defendant violated plaintiff's civil rights. "Liability under § 1983 requires a causal link to, and direct responsibility for, the alleged deprivation of rights." Madewell v. Roberts, 909 F.2d 1203, 1208 (8th Cir. 1990); see also Martin v. Sargent, 780 F.2d 1334, 1338 (8th Cir. 1985) (claim not cognizable under § 1983 where plaintiff fails to allege defendant was personally involved in or directly responsible for incidents that injured plaintiff); Boyd v. Knox, 47 F.3d 966, 968 (8th Cir. 1995) (respondeat superior theory inapplicable in § 1983 suits). Because plaintiff has not alleged that Nixon was ever directly involved in any violation of his constitutional rights, the complaint fails to state a claim upon which relief can be granted and will be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that this case is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B).

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because the complaint fails to state a claim upon which relief can be granted.

IT IS FURTHER ORDERED that all other pending motions are **DENIED** as moot.

An appropriate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 11th Day of June, 2007.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE